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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA,) Case No. 18-CR-00258 EJD
15 Plaintiff,)
16 v.) STIPULATION REGARDING
17 RAMESH "SUNNY" BALWANI,) SCHEDULE FOR RESTITUTION HEARING AND
18 Defendant.) HEARING ON MOTION FOR RELEASE
19 _____) PENDING APPEAL AND [PROPOSED] ORDER

21 **STIPULATION**

22 On December 7, 2022, the Court imposed sentence in this matter. During the hearing, the Court
23 asked that the parties to meet and confer regarding a restitution hearing date.

24 On January 9, 2023, the defendant filed a Motion for Release Pending Appeal (ECF No. 1711).

25 At the Court's request, the parties have met and conferred regarding a restitution hearing date, as
26 well as a date for hearing of the Motion for Release Pending Appeal. In consideration of the Court's and
27 counsel's availability, the parties' desire to conduct the hearings on the same date to promote efficiency,
28 and the government's need for time to consult with victims or their counsel and to review relevant

authorities regarding restitution, particularly in light of the Court's findings regarding loss for purposes of the Sentencing Guidelines during the sentencing, the parties hereby stipulate to and jointly request that the Court set the following schedule:

1/9/2023: Defendant's Motion for Release Pending Appeal due

1/30/2023: Government's opposition to defendant's Motion for Release Pending Appeal due

1/30/2023: Government's brief in advance of restitution hearing due

2/10/2023: Defendant's reply in support of his Motion for Release Pending Appeal due; and
Defendant's response to Government's restitution brief due

2/17/2023: Hearing on defendant's Motion for Release Pending Appeal and on restitution.

The parties recognize that 18 U.S.C. § 3664(d)(5) provides “the court shall set a date for the final determination of the victim’s losses, not to exceed 90 days after sentencing.” 18 U.S.C. § 3664(d)(5). The proposed February 17 date is within 90 days of Mr. Balwani’s sentencing. Nevertheless, for the avoidance of any doubt, the parties stipulate and agree there is good cause to conduct the restitution hearing on February 17, 2023, and that the Court retains authority to determine and impose restitution at or promptly following the hearing on February 17, 2023. *See Dolan v. United States*, 560 U.S. 605, 608, 611 (2010). The defendant consents to holding the restitution hearing on February 17, 2023, and waives any objection based on 18 U.S.C. § 3664(d)(5).

IT IS SO STIPULATED.

DATED: January 10, 2023

Respectfully submitted,

STEPHANIE M. HINDS
United States Attorney

/s/ Kelly I. Volkar
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1 DATED: January 10, 2023

/s/ Jeffrey B. Coopersmith
2 JEFFREY B. COOPERSMITH
3 AMY WALSH
4 STEPHEN A. CAZARES
5 Attorneys for Defendant Ramesh "Sunny"
6 Balwani

7 **[PROPOSED] ORDER**

8 Based upon the stipulation of the parties and the record, and good cause shown, the schedule
9 proposed by the parties above is adopted. The Court finds good cause to hold the hearing on the Motion
10 for Release Pending Appeal and the restitution hearing on February 17, 2023.

11 IT IS SO ORDERED.

12 DATED: January 17, 2023



HON. EDWARD J. DA VILA
United States District Judge